HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 14418 of 2007

Date: 23.8.2007

Between:

Pothala Saidamma

....Petitioner

and

The Government of A.P., represented by its Principal Secretary, Revenue (Registration.I) Department and another

....Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 14418 of 2007

O R D E R:

The husband of the petitioner served the Indian Navy. The Government assigned an extent of Ac.5.00 of land in Sy.No.137 of Sangivalasa Village, Bheemunipatnam Mandal, Visakhapatnam District, to him, vide proceedings dated 28.5.1981.

The husband of the petitioner died on 7.5.2002. The petitioner intended to sell the land for her family necessities. The 1st respondent issued G.O.Ms.No.1021, Revenue (Registration-I) dated 1.10.2003 under Section 22-A of the Registration Act (for short 'the Act'), as it then stood, prohibiting registration of any documents in relation to the land in entire Sy.No.137 of the said village. In view of this notification, the 2nd respondent expressed his inability to entertain any documents in relation to the land assigned to the husband of the petitioner. The G.O.Ms.No.1021 dated 1.10.2003, insofar as it relates to the land of the petitioner, is challenged in this writ petition.

On behalf of the respondents, a counter affidavit is filed. It is stated that though the husband of the petitioner was granted provisional patta for Ac.5.00, the petitioner cannot alienate the same in view of the G.O.Ms.No.1021 dated 1.10.2003.

Heard the learned counsel for the petitioner and the learned

Government Pleader for Revenue.

Section 22-A of the Act, which empowered the Government to issue notifications prohibiting alienation of lands, was held to be ***ultra vires***, by this court as well as the Supreme Court. The notifications issued under that provision were also set aside. Had the matter rested there, the petitioner would not have had any grievance.

Through Act 19 of 2007, the Andhra Pradesh State Legislature replaced Section 22-A of the Act, with a different provision. Sub-section (4) of the newly added Section validates the notification that was issued under the erstwhile Section 22-A of the Act. Therefore, the G.O.Ms.No.1021 dated 1.10.2003, which was issued under the old Section 22-A of the Act, continues to operate, in view of the validation under the new provision.

Hence, the necessity has arisen for the petitioner to challenge the notification. It is true that the land in Sy.No.137 of Sangivalasa Village is recorded as a Government land and part of it was assigned to the husband of the petitioner. Irrespective of the prohibition imposed under Section 22-A of the Act, the assigned land cannot be alienated and no document in relation to the same can be registered, in view of Section 5 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. The lands assigned to Freedom Fighters and Ex-Servicemen, however, stand on a different footing.

Basically, such assignments are not in favour of landless poor. Secondly, the Government itself issued G.O.Ms.No.1117 dated 11.11.1993, permitting the assignees of such land to alienate the same, after expiry of 10 years from the date of assignment. It is not in dispute that the assignment in favour of husband of the petitioner was made on 28.5.1981 and 10 years have already expired. Being the successor of the assignee, the petitioner is entitled to transfer such land.

Therefore, the G.O.Ms.No.1021 dated 1.10.2003, insofar as it relates to land of Ac.5.00 assigned to the husband of the petitioner,

shall stand set aside. The 2nd respondent shall entertain the document that may be presented by the petitioner, without reference to the said G.O.

The writ petition is allowed. There shall be no order as to costs.

L.NARASIMHA REDDY, J

Date: 23.8.2007
Note: LR copy to be marked.
Bo cvm